

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OLA KIRK

PLAINTIFF

VS.

CAUSE NO.: 3:14-CV-537-WHB-RHW

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY, ET AL.

DEFENDANTS

DEFENDANTS ALBERT SANTA CRUZ AND DONNELL BERRY'S ANSWER

COME NOW Albert Santa Cruz and Donnell Berry, two of the Defendants in the above styled and numbered cause, by and through counsel, and file this their Answer and would show unto the Court as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted against these Defendants.

SECOND DEFENSE

These Defendants are immune from suit and not subject to liability from Plaintiff's claims based on an alleged violation of 42 U.S.C. § 1983.

THIRD DEFENSE

Without waiving the aforementioned defenses, Defendants specifically answer the allegations of the Complaint and says:

1. Defendants admit the allegations of paragraph 1 of the Complaint.
2. Defendants admit the allegations of paragraph 2 of the Complaint.
3. Defendants admit the allegations of paragraph 3 of the Complaint.

4. Defendants admit the allegations of paragraph 4 of the Complaint.
5. Defendants admit the allegations of paragraph 5 of the Complaint.
6. Defendants admit the allegations of paragraph 6 of the Complaint.
7. Defendants admit the allegations of paragraph 7 of the Complaint.
8. Defendants deny each and every allegation of paragraph 8 of the Complaint and demand strict proof of all the same.
9. Defendants deny each and every allegation of paragraph 9 of the Complaint and demand strict proof of all the same.
10. Defendants deny each and every allegation of paragraph 10 of the Complaint and demand strict proof of all the same.
11. Defendants admit the allegations of paragraph 11 of the Complaint.
12. Defendants admit the allegations of paragraph 12 of the Complaint.
13. Defendants admit the allegations of paragraph 13 of the Complaint.
14. Defendants deny each and every allegation of paragraph 14 of the Complaint and demand strict proof of all the same.
15. Defendants deny each and every allegation of paragraph 15 of the Complaint and demand strict proof of all the same.
16. Defendants deny each and every allegation of paragraph 16 of the Complaint and demand strict proof of all the same.
17. Defendants deny each and every allegation of paragraph 17 of the Complaint and demand strict proof of all the same.
18. Defendants deny each and every allegation of paragraph 18 of the Complaint and demand strict proof of all the same.

19. Defendants deny each and every allegation of paragraph 19 of the Complaint and demand strict proof of all the same.

20. Defendants deny each and every allegation of paragraph 20 of the Complaint and demand strict proof of all the same.

21. Defendants deny each and every allegation of paragraph 21 of the Complaint and demand strict proof of all the same.

22. Defendants admit the allegations of paragraph 22 of the Complaint.

23. Defendants deny each and every allegation of paragraph 23 of the Complaint and demand strict proof of all the same.

24. Defendants admit the allegations of paragraph 24 of the Complaint.

25. Defendants admit the allegations of paragraph 25 of the Complaint.

26. Defendants deny each and every allegation of paragraph 26 of the Complaint and demand strict proof of all the same.

27. Defendants deny each and every allegation of paragraph 27 of the Complaint and demand strict proof of all the same.

28. Defendants deny each and every allegation of paragraph 28 of the Complaint and demand strict proof of all the same.

29. Defendants deny each and every allegation of paragraph 29 of the Complaint and demand strict proof of all the same.

30. Defendants deny each and every allegation of paragraph 30 of the Complaint and demand strict proof of all the same.

31. Defendants deny each and every allegation of paragraph 31 of the Complaint and demand strict proof of all the same.

32. Defendants deny each and every allegation of paragraph 32 of the Complaint and demand strict proof of all the same.

33. Defendants deny each and every allegation of paragraph 33 of the Complaint and demand strict proof of all the same.

34. Defendants deny each and every allegation of paragraph 34 of the Complaint and demand strict proof of all the same.

35. Defendants deny each and every allegation of paragraph 35 of the Complaint and demand strict proof of all the same.

36. Defendants deny each and every allegation of paragraph 36 of the Complaint and demand strict proof of all the same.

37. Defendants deny each and every allegation of paragraph 37 of the Complaint and demand strict proof of all the same.

38. Defendants deny each and every allegation of paragraph 38 of the Complaint and demand strict proof of all the same.

39. Defendants deny each and every allegation of paragraph 39 of the Complaint and demand strict proof of all the same.

40. Defendants deny each and every allegation of paragraph 40 of the Complaint and demand strict proof of all the same.

41. Defendants deny each and every allegation of paragraph 41 of the Complaint and demand strict proof of all the same.

42. Defendants deny each and every allegation of paragraph 42 of the Complaint and demand strict proof of all the same.

43. Defendants deny each and every allegation of paragraph 43 of the

Complaint and demand strict proof of all the same.

44. Defendants deny each and every allegation of paragraph 44 of the Complaint and demand strict proof of all the same.

45. Defendants deny each and every allegation of paragraph 45 of the Complaint and demand strict proof of all the same.

46. Defendants deny each and every allegation of paragraph 46 of the Complaint and demand strict proof of all the same.

47. Defendants deny each and every allegation of paragraph 47 of the Complaint and demand strict proof of all the same.

48. Defendants deny each and every allegation of paragraph 48 of the Complaint and demand strict proof of all the same.

49. Defendants deny each and every allegation of paragraph 49 of the Complaint and demand strict proof of all the same.

50. Defendants deny each and every allegation of paragraph 50 of the Complaint and demand strict proof of all the same.

51. Defendants deny each and every allegation of paragraph 51 of the Complaint and demand strict proof of all the same.

52. Defendants deny each and every allegation of paragraph 52 of the Complaint and demand strict proof of all the same.

53. Defendants deny each and every allegation of paragraph 53 of the Complaint and demand strict proof of all the same.

54. Defendants deny each and every allegation of paragraph 54 of the Complaint and demand strict proof of all the same.

55. Defendants deny each and every allegation of paragraph 55 of the Complaint and demand strict proof of all the same.

56. Defendants deny each and every allegation of paragraph 56 of the Complaint and demand strict proof of all the same.

57. Defendants deny each and every allegation of paragraph 57 of the Complaint and demand strict proof of all the same.

58. Defendants deny each and every allegation of paragraph 58 of the Complaint and demand strict proof of all the same.

59. Defendants deny each and every allegation of paragraph 59 of the Complaint and demand strict proof of all the same.

60. Defendants deny each and every allegation of paragraph 60 of the Complaint and demand strict proof of all the same.

61. Defendants deny each and every allegation of paragraph 61 of the Complaint and demand strict proof of all the same.

62. Defendants deny each and every allegation of paragraph 62 of the Complaint and demand strict proof of all the same.

63. Defendants deny each and every allegation of paragraph 63 of the Complaint and demand strict proof of all the same.

64. Defendants deny each and every allegation of paragraph 64 of the Complaint and demand strict proof of all the same.

65. Defendants deny each and every allegation of paragraph 65 of the Complaint and demand strict proof of all the same.

66. Defendants deny each and every allegation of paragraph 66 of the

Complaint and demand strict proof of all the same.

67. Defendants deny each and every allegation of paragraph 67 of the Complaint and demand strict proof of all the same.

68. Defendants deny each and every allegation of paragraph 68 of the Complaint and demand strict proof of all the same.

69. Defendants deny each and every allegation of paragraph 69 of the Complaint and demand strict proof of all the same.

70. Defendants deny each and every allegation of paragraph 70 of the Complaint and demand strict proof of all the same.

71. Defendants deny each and every allegation of paragraph 71 of the Complaint and demand strict proof of all the same.

72. Defendants deny each and every allegation of paragraph 72 of the Complaint and demand strict proof of all the same.

73. Defendants deny each and every allegation of paragraph 73 of the Complaint and demand strict proof of all the same.

74. Defendants deny each and every allegation of paragraph 74 of the Complaint and demand strict proof of all the same.

75. Defendants deny each and every allegation of paragraph 75 of the Complaint and demand strict proof of all the same.

76. Defendants deny each and every allegation of paragraph 76 of the Complaint and demand strict proof of all the same.

77. Defendants deny each and every allegation of paragraph 77 of the Complaint and demand strict proof of all the same.

78. Defendants deny each and every allegation of paragraph 78 of the Complaint and demand strict proof of all the same.

79. Defendants deny each and every allegation of paragraph 79 of the Complaint and demand strict proof of all the same.

80. Defendants deny each and every allegation of paragraph 80 of the Complaint and demand strict proof of all the same.

81. Defendants deny each and every allegation of paragraph 81 of the Complaint and demand strict proof of all the same.

82. Defendants deny each and every allegation of paragraph 82 of the Complaint and demand strict proof of all the same.

83. Defendants deny each and every allegation of paragraph 83 of the Complaint and demand strict proof of all the same.

84. Defendants deny each and every allegation of paragraph 84 of the Complaint and demand strict proof of all the same.

85. Defendants deny each and every allegation of paragraph 85 of the Complaint and demand strict proof of all the same.

86. Defendants deny each and every allegation of paragraph 86 of the Complaint and demand strict proof of all the same.

87. Defendants hereby adopt and incorporate herein their responses to the allegations set forth in paragraphs 1 through 86 of this Answer the same as if fully set forth herein.

88. Defendants deny each and every allegation of paragraph 88 of the Complaint and demand strict proof of all the same.

89. Defendants deny each and every allegation of paragraph 89 of the Complaint and demand strict proof of all the same.

90. Defendants hereby adopt and incorporate herein their responses to the allegations set forth in paragraphs 1 through 89 of this Answer the same as if fully set forth herein.

91. Defendants deny each and every allegation of paragraph 91 of the Complaint and demand strict proof of all the same.

92. Defendants deny each and every allegation of paragraph 92 of the Complaint and demand strict proof of all the same.

93. Defendants deny each and every allegation of paragraph 93 of the Complaint and demand strict proof of all the same.

94. Defendants hereby adopt and incorporate herein their responses to the allegations set forth in paragraphs 1 through 93 of this Answer the same as if fully set forth herein.

95. Defendants deny each and every allegation of paragraph 95 of the Complaint and demand strict proof of all the same.

96. Defendants deny each and every allegation of paragraph 96 of the Complaint and demand strict proof of all the same.

97. Defendants deny each and every allegation of paragraph 97 of the Complaint and demand strict proof of all the same.

98. Defendants deny each and every allegation of paragraph 98 of the Complaint and demand strict proof of all the same.

99. Defendants deny each and every allegation of paragraph 99 of the

Complaint and demand strict proof of all the same.

100. Defendants deny each and every allegation of paragraph 100 of the Complaint and demand strict proof of all the same.

101. Defendants deny each and every allegation of paragraph 101 of the Complaint and demand strict proof of all the same.

102. Defendants deny each and every allegation of paragraph 102 of the Complaint and demand strict proof of all the same.

103. Defendants deny each and every allegation of paragraph 103 of the Complaint and demand strict proof of all the same.

104. Defendants deny each and every allegation of paragraph 104 of the Complaint and demand strict proof of all the same.

105. Defendants deny each and every allegation of paragraph 105 of the Complaint and demand strict proof of all the same.

106. Defendants deny each and every allegation of paragraph 106 of the Complaint and demand strict proof of all the same.

107. Defendants deny each and every allegation of paragraph 107 of the Complaint and demand strict proof of all the same.

108. Defendants deny each and every allegation of paragraph 108 of the Complaint and demand strict proof of all the same.

109. Defendants deny each and every allegation of paragraph 109 of the Complaint and demand strict proof of all the same.

110. Defendants deny each and every allegation of paragraph 110 of the Complaint and demand strict proof of all the same.

111. Defendants deny each and every allegation of paragraph 111 of the Complaint and demand strict proof of all the same.

112. Defendants deny each and every allegation of paragraph 112 of the Complaint and demand strict proof of all the same.

113. Defendants deny each and every allegation of paragraph 113 of the Complaint and demand strict proof of all the same.

114. Defendants deny each and every allegation of paragraph 114 of the Complaint and demand strict proof of all the same.

115. Defendants deny each and every allegation of paragraph 115 of the Complaint and demand strict proof of all the same.

116. Defendants hereby adopt and incorporate herein their responses to the allegations set forth in paragraphs 1 through 115 of this Answer the same as if fully set forth herein.

117. Defendants deny each and every allegation of paragraph 117 of the Complaint and demand strict proof of all the same.

118. Defendants deny each and every allegation of paragraph 118 of the Complaint and demand strict proof of all the same.

119. Defendants deny each and every allegation of paragraph 119 of the Complaint and demand strict proof of all the same.

120. Defendants deny each and every allegation of the last unnumbered paragraph of the Complaint and sub-parts thereof and demand strict proof of all the same, and specifically denies that Plaintiff is entitled to any sum or relief whatsoever.

FOURTH DEFENSE

Answering further, Defendants specifically deny that they have willfully violated any law in any manner or respect whatsoever and deny that they are liable unto Plaintiff as alleged in the Complaint in any amount or sum whatsoever.

Having fully answered and presented these defenses, Defendants pray to be dismissed. Defendants pray for such other and further relief as may be deemed appropriate.

RESPECTFULLY SUBMITTED, this the 19th day of March, 2015.

**ALBERT SANTA CRUZ AND DONNELL
BERRY, Defendants**

**BY: JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI**

BY: s/ Peter W. Cleveland
PETER W. CLEVELAND, MSB No. 6301
SPECIAL ASSISTANT ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I, Peter W. Cleveland, Special Assistant Attorney General for the State of Mississippi, do hereby certify that on this date I caused to be electronically filed the foregoing ***Defendants Albert Santa Cruz and Donnell Berry's Answer*** with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

John M. Mooney, Jr.
LAW OFFICES OF JOHN M. MOONEY, JR., PLLC
208 Waterford Square, Ste. 100
Madison, MS 39110

THIS, the 19th day of March, 2015.

s/ Peter W. Cleveland
PETER W. CLEVELAND